

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

JOSE LUIS DOMINGUEZ,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

Case No. 05-CV-72103-DT
Criminal Case No. 97-80995-DT
HONORABLE DENISE PAGE HOOD

**ORDER RE: MOTION UNDER 28 U.S.C. § 2255
TO VACATE, SET ASIDE, OR CORRECT SENTENCE**

Petitioner Jose Luis Dominguez entered into a Rule 11 Plea Agreement with the Government. The Court imposed its Judgment on August 2, 2001, sentencing Defendant to 68 months of imprisonment. On May 26, 2005, Petitioner filed the instant Motion to Vacate, Set Aside or Correct Sentence under 28 U.S.C. § 2255. A response was filed by the Government.

The Anti Terrorism and Effective Death Penalty Act, enacted on April 24, 1996, imposes a one-year time limitation on Section 2255 motions. Absent the assertion of an alternative starting point, this period runs from the date on which the judgment of conviction becomes final. 28 U.S.C. § 2255. If a petitioner does not file a notice of appeal, the judgment becomes final at the end of the time to file an appeal. *Clay v. United States*, 537 U.S. 522, 527-28 (2003); *Sanchez-Castellano v. United States*, 358 F.3d 424, 426-27 (6th Cir. 2004). A judgment of conviction becomes final when the time for filing a petition for certiorari expires. *Griffith v. Kentucky*, 479 U.S. 314, 321 n.6 (1987).

The Court finds that Petitioner's Section 2255 motion is time barred under 28 U.S.C. § 2255. Judgment was imposed on August 2, 2001 and signed by the Court on August 16, 2001. Petitioner

did not appeal his Judgment. Petitioner filed the instant motion on May 26, 2005, well-beyond the one-year limitation imposed by Section 2255. Petitioner's Section 2255 is untimely and time-barred.

Accordingly,

IT IS ORDERED that the Petition to Vacate, Set Aside or Correct Sentence under 28 U.S.C. § 2255 (Case No. **05-CV-72103-DT, Docket No. 1** and Case No. **97-CR-80995-01, Docket No. 885, filed May 26, 2005**) is DENIED.

IT IS FURTHER ORDERED that Civil Case No. 05-CV-72103-DT is DISMISSED with prejudice.

s/ DENISE PAGE HOOD

DENISE PAGE HOOD

United States District Judge

DATED: July 29, 2005